

TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

NOTICE IS HEREBY GIVEN that the **Board of Vocational Nursing and Psychiatric Technicians** (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the **Engineers Board Hearing Room, 2535 Capitol Oaks Drive (Third Floor), Sacramento, CA 95833 at 10:00 A.M. on Wednesday, January 2, 2008**. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 P.M. on Monday, December 31, 2007, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 2854 and 4504 of the Business and Professions (B&P) Code, and 11425.50(e) of the Government Code, and to implement, interpret or make specific sections 101.6, 108, 475, 480, 482, 490, 2875, 2876, 2877, 2878, 2878.1, 2878.5, 2878.6, 2878.7, 2878.8, 2878.9, 4520, 4521, 4521.1, 4521.2, 4521.6, 4523, and 4524 of said Code, the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to B&P Code section 2854 (Vocational Nursing); and B&P Code section 4504 (Psychiatric Technicians), the Board may adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry out the provisions of these chapters.

1. Vocational Nursing Regulations

Rehabilitation Criteria – Amend Section 2522: Repeal Section 2522.5.

Existing law authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Vocational Nursing Law.

The proposed regulations would update the Board's criteria to evaluate the rehabilitation of a person when considering the denial, suspension or revocation of a license and ensure consistency with the Board's Disciplinary Guidelines. The proposed regulations consolidate section 2522.5 (VN) with section 2522 (VN).

Additionally, section 482 of the Code requires the Board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension or revocation of a license. Existing regulations relative to rehabilitation criteria are

outdated and need to be amended. This proposal would update the Board's criteria for rehabilitation and provide consistency between the rehabilitation criteria and factors to be considered contained in the Board's Disciplinary Guidelines.

Disciplinary Guidelines – Amend Section 2524.

Existing law authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Vocational Nursing Law.

Government Code Section 11425.50(e) requires that a penalty in an administrative disciplinary action may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application or other rule subject to Chapter 3.5 (commencing with Section 11340) unless it has been adopted as a regulation pursuant to Chapter 3.5 (commencing with Section 11340). This proposal would amend the Board's "Disciplinary Guidelines" (6/19/2007) incorporated by reference into Section 2524.

The Board last revised its disciplinary guidelines on January 1, 2000. Since that time, there have been changes in Board policy, the work environment, and healthcare practice that have resulted in the guidelines being outdated. To remain current, the guidelines must be amended.

The proposed revisions will update, clarify, and provide consistency for the Board's disciplinary orders, conditions of probation, and rehabilitation criteria and include general clean up.

2. Psychiatric Technician Regulations

Rehabilitation Criteria – Amend Section 2579: Repeal 2579.1.

Existing law authorizes the Board of Vocational Nursing and Psychiatric Technicians to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Psychiatric Technicians Law.

The proposed regulations would update the Board's criteria to evaluate the rehabilitation of a person when considering the denial, suspension or revocation of a license and ensure consistency with the Board's Disciplinary Guidelines. The proposed regulations consolidate section 2579.1 (PT) with section 2579 (PT).

Additionally, section 482 of the Code requires the Board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension or revocation of a license. Existing regulations relative to rehabilitation criteria are outdated and need to be amended. This proposal would update the Board's criteria for rehabilitation and provide consistency between the rehabilitation criteria and factors to be considered contained in the Board's Disciplinary Guidelines.

Disciplinary Guidelines – Amend Section 2579.10.

Existing law authorizes the Board of Vocational Nursing and Psychiatric Technicians to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Psychiatric Technicians Law.

Government Code Section 11425.50(e) requires that a penalty in an administrative disciplinary action may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application or other rule subject to Chapter 3.5 (commencing with Section 11340) unless it has been adopted as a regulation pursuant to Chapter 3.5 (commencing with Section 11340). This proposal would amend the Board's "Disciplinary Guidelines" (6/19/2007) incorporated by reference into Section 2524.

The Board last revised its disciplinary guidelines on January 1, 2000. Since that time, there have been changes in Board policy, the work environment, and healthcare practice that have resulted in the guidelines being outdated. To remain current, the guidelines must be amended.

The proposed revisions will update, clarify, and provide consistency for the Board's disciplinary orders, conditions of probation, and rehabilitation criteria and include general clean up.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of

jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS:

The Board has determined that the proposed regulations would not affect small businesses. The proposed amendments do not alter staffing or equipment needs in any small business.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above – mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared,

by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Michele Hedding
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone No.: (916) 263-7848
Fax No.: (916) 263-7859
E-Mail Address: michele_hedding@dca.ca.gov

The backup contact person is:

Name: Kerry Kuepper
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
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Website Access – Materials regarding this proposal can be found at www.bvnpt.ca.gov.

(11/7/07)